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Landmark Censorship Case Likely Headed to Supreme Court as Justice Alito Pauses Order Blocking White House From Contact With Social Media

U.S. Supreme Court Justice Samuel Alito on Thursday paused an order that would have restricted the Biden administration from communicating with social media companies after two lower courts found key government officials likely violated the First Amendment by pressuring the companies to censor information about COVID-19.

By **Brenda Baletti, Ph.D.**

19

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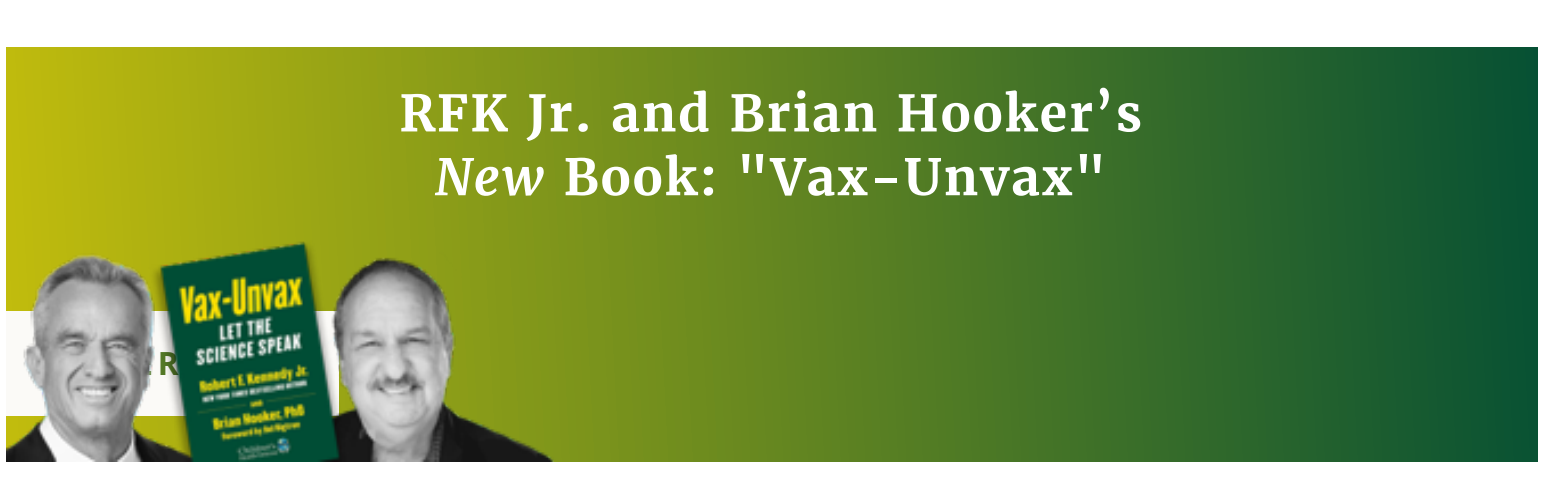
U.S. Supreme Court Justice Samuel Alito on Thursday paused an order that would have restricted the Biden administration from communicating with social media companies after two lower courts found key government officials likely violated the First Amendment by pressuring the companies to censor information about COVID-19.

Alito's ruling places a temporary hold on a federal judge's injunction issued July 4 in Missouri et al. v. Biden et al., and later upheld under a Sept. 8 ruling by the 5th Circuit U.S. Court of Appeals.

The injunction was set to take effect Sept. 18.

The 5th Circuit agreed with the lower court that Biden administration officials illegally suppressed free speech on social media. But a three-judge panel issued a mixed ruling that only partially upheld the July 4 injunction.

Alito's pause, in effect until Sept. 22, followed Thursday's emergency filing by the U.S. Department of Justice to the Supreme Court to stay the injunction while the high court considers whether to hear the case.


RFK Jr. and Brian Hooker's
New Book: "Vax-Unvax"

The plaintiffs have until Sept. 20 to respond to the government's request.

Kim Mack Rosenberg, acting general counsel for Children's Health Defense (CHD) told The Defender it was not surprising that Solicitor General Elizabeth Prelogar asked the Supreme Court to stay the injunction, nor that the court issued a brief administrative stay, as the 5th Circuit had also done in July.

"Counsel for President Biden and the other defendants had telegraphed before the 5th Circuit at oral arguments on Aug. 10 that the defendants likely would take the case up to the Supreme Court," she said.

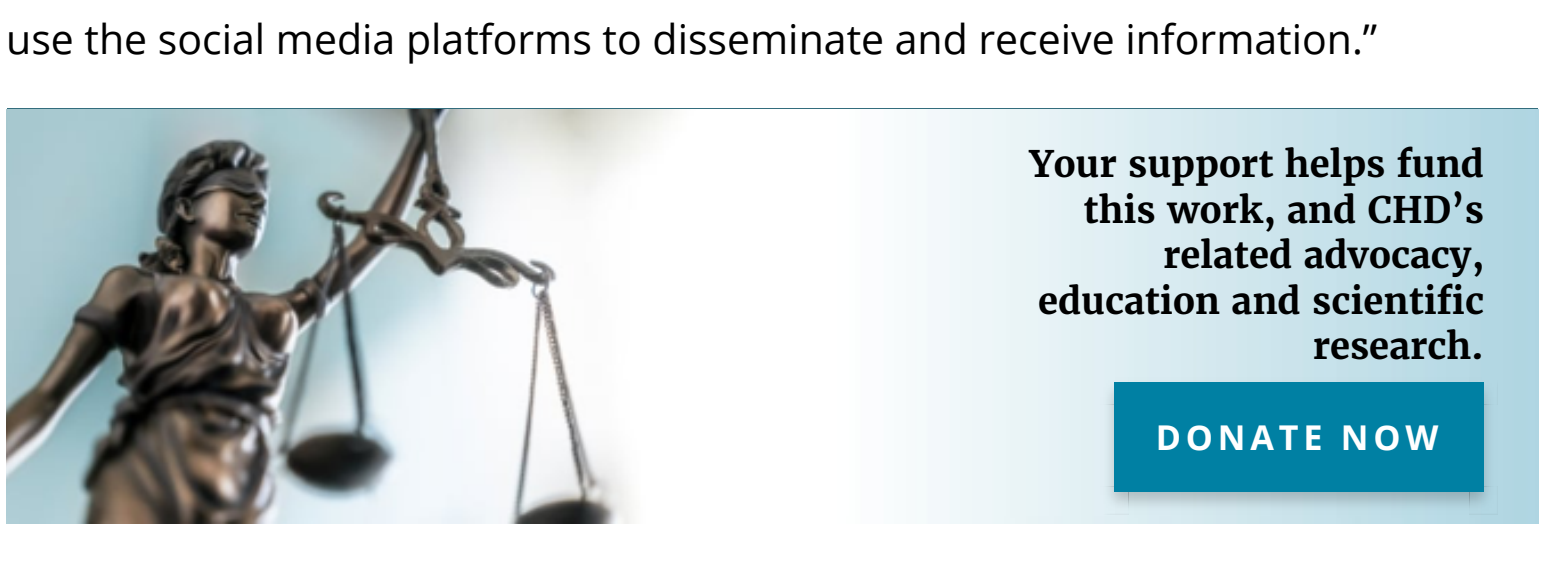
In the filing, Prelogar argued the injunction "flouts bedrock principles of Article III [regarding judicial powers], the First Amendment, and equity."

"A central dimension of presidential power is the use of the Office's bully pulpit to seek to persuade Americans — and American companies — to act in ways that the President believes would advance the public interest," Prelogar wrote.

But, she added, "The court imposed unprecedented limits on the ability of the President's closest aides to use the bully pulpit to address matters of public concern, on the FBI's ability to address threats to the Nation's security, and on the CDC's [Centers for Disease Control and Prevention] ability to relay public-health information at platforms' request."

Commenting on these claims, Rosenberg said, "What is interesting to me is how tone deaf to First Amendment rights the federal government appears to be," adding that the statement on the presidential use of the bully pulpit was particularly telling.

"This is not a case about suppressing the government's ability to express opinions in the media," said Rosenberg. "It is about the government actively engaging with social media to suppress First Amendment rights of those who use the social media platforms to disseminate and receive information."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The "bully pulpit" examples cited by Prelogar in the application concerned non-speech-related actions by companies, and were "completely distinguishable" from this case, Rosenberg said.

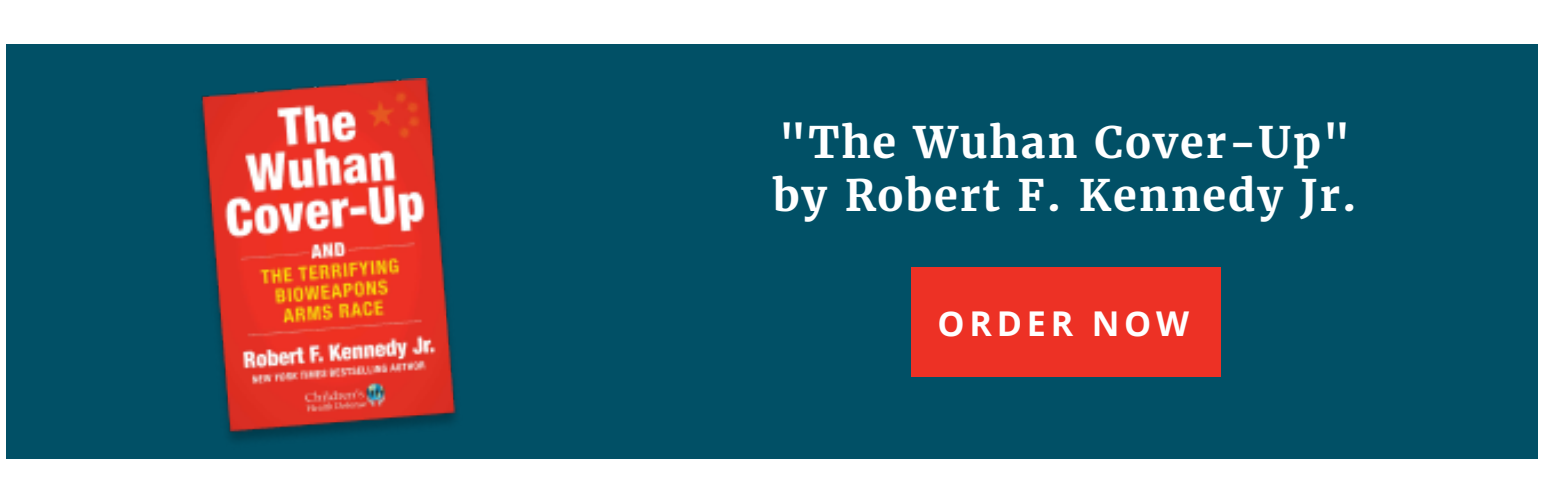
While the government claims it is simply trying to persuade companies to take certain action with respect to speech, she said "the evidence brought forth to date in this case and elsewhere shows the government's coercive actions in communicating with social media companies to suppress free speech and mislead Americans through censored media."

Two courts already found the evidence the administration's actions violated the First Amendment compelling and issued and upheld the injunction based on that evidence.

The 5th Circuit judges wrote last week that the White House and the Office of the Surgeon General had "coerced the platforms to make their moderation decisions by way of intimidating messages and threats of adverse consequences" and "significantly encouraged the platforms' decisions by commandeering their decision-making processes."

The court limited the scope of the original preliminary injunction, which prohibited officials from many agencies from having practically any contact with the social media companies. Instead, the court narrowed the impact to the White House, the Surgeon General's Office, the FBI and the CDC.

In the filing Thursday, Prelogar also argued, "If allowed to take effect, the injunction would impose grave and irreparable harms on the government and the public."


"The Wuhan Cover-Up"
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Rosenberg responded:

> "I would argue that if the injunction does not take effect, the public will continue to be harmed by the government exerting coercive pressure to control what we are allowed to say and see on social media.
>
> "Free speech is a hallmark of democracy. It is astounding that this administration continues to try to disassemble and destroy this fundamental right."

The central question in Missouri et al. v. Biden et al. is whether the Biden administration violated the First Amendment when it pressured social media companies to remove or suppress content that ran contrary to official narratives on COVID-19, vaccines and other content the government disagreed with.

Plaintiffs in the case include Jay Bhattacharya, M.D., Ph.D., and Martin Kulldorff, Ph.D., who co-authored the Great Barrington Declaration, Jim Hoft, who runs The Gateway Pundit website, Dr. Aaron Kheriaty senior scholar at the Brownstone Institute, and Jill Hines, co-director of Health Freedom Louisiana, along with the attorneys general from Missouri and Louisiana.

It is one of several lawsuits pending in federal courts alleging the White House and members of the Biden administration pressured social media platforms to suppress speech that was not aligned with establishment policies concerning COVID-19, vaccines and other policy-related issues.

These include cases against Texas and Florida for passing anti-censorship laws, the Kennedy et al. v. Biden et al. censorship lawsuit, which was consolidated with Missouri et al. v. Biden et al. in July, and Kennedy v. Google et al., alleging YouTube censored COVID-19 vaccine-related content posted by Robert F. Kennedy Jr., CHD's chairman on leave, and in which CHD is co-plaintiff.

In 2021, CHD filed a landmark complaint in California against Facebook. Based on arguments first advanced by Yale law professor Jed Rubenfeld, who represents CHD and Kennedy in these cases, CHD argued the federal government's involvement in Facebook's censorship of COVID-19-related speech turned that censorship into state action violating the First Amendment. That case is still pending before the 9th Circuit and remains undecided to this day.

The 5th Circuit ruling last week upheld an almost identical claim. That the decision is now on appeal to the U.S. Supreme Court has "potentially historic" implications, Rubenfeld told The Defender.

"The government's use of social media platforms to censor speech is the gravest threat to the First Amendment of our time," Rubenfeld said. "The Court has the opportunity to stop this massive violation of free speech, and if it does, the effects will be profound throughout the country and the legal system."

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Brenda Baletti, Ph.D.

Brenda Baletti Ph.D. is a reporter for The Defender. She wrote and taught about capitalism and politics for 10 years in the writing program at Duke University. She holds a Ph.D. in human geography from the University of North Carolina at Chapel Hill and a master's from the University of Texas at Austin.

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Gary Brown
2 days ago edited
SEPTEMBER 15, 2023 After Hearing This You Won't Ever Want To Vaccinate Yourself Or Your Kids Ever Again

In a recent podcast Orthopaedic Surgeon Ahmad Malikhad a conversation with Aaron Siri, Managing Partner of Siri & Glimstad LLP where they covered a whole range of topics regarding vaccinations. They claim that 'Big Pharma has corrupted and captured our institutions, our regulatory bodies, the media, and our governments' Doc Malik believes that after hearing what they have to say, "you won't ever want to vaccinate yourself or your kids ever again"

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irishtap → Gary Brown
a day ago
I just viewed this, thank you for sharing.
2 0 Reply • Share ›

Gary Brown → irishtap
21 hours ago
My pleasure friend! Cowboy hat greeting.
0 0 Reply • Share ›

kris
2 days ago
How can she say the court imposed unprecedented limits when what really happened is the executive branch took and is taking unprecedented amounts of power to censor us all? The courts are defending our right to free speech --- does the entire country have heavy metal poisoning in the brain????
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Isacc Witham → kris
17 hours ago
The Censorship involved Millions and hardly just COVID 19 matters. The idea all these millions censored only involved COVID issues is a claim of enormous nonsense. Until robust Discovery is completed and FOIA Demands are fulfilled , making such assertions is wholly without merit.
1 0 Reply • Share ›

kris
2 days ago
The 3 branches of govt are supposed to keep each other in check.. separation of powers.. so the executive branch takes an unprecedented overreach and attack on our freedom of speech.. and the judicial branch attempts to set precedent for protecting our freedom of speech.

Of course there isn't a precedent when else did a president try to stop all Americans from communicating with each other that they had been injured by a shoddy experimental medical prodecure?!??!?
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Kathleen Kahl → kris
a day ago
You forgot that we have a 4th branch that is in control of us all.
1 0 Reply • Share ›

kris → Kathleen Kahl
a day ago
Yeah what did the founders have to say about being governed by non profits from afar and regulatory agencies ?!??!
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QuentonQuale
a day ago edited
The govt argues that it's a national security issue if they can't reach the people via social media which is nonsense. They have access to all major media if there were a true emergency. Their lawyers cant seem to grasp that coercing social media companies to block the information of others is not the same as providing information to the public. The govt is now an arm of pharma, serving them rather than the people.
3 0 Reply • Share ›

PonyBoy
a day ago
Do Not Comply with this government's Totalitarian edicts.
Like Nancy Raygun famously said, "Just say no!"
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Douglas Jack
2 days ago
LAW-VIOLATION NATION
MEDICINE'S 1st LAW = DO-NO-HARM.
CASE A. VIOLATIONS
a) This now documented illegal Gain-of-Function COVID-19 Virus developed in Fort-Deitrick Maryland, University of North Carolina shipped to avert US Law to Wuhan, China breaks all human laws & should be prosecuted to the fullest extent of all national & international law as illegal Biological Warfare.
b) As a purported & yet to be charted Virus, one does not treat so-called viruses or any microscopic pathological agent alone, but must always treat all illnesses based on the TERRAIN or whole body & systems health processes. i.e. One does not mRNA manipulate artificial production of Spike Proteins to supposedly 'fight' infectious agents, but 1st enhance the body's natural defenses through natural treatments like Ivermectin, Zinc, Vitamin D3, Vit C. Hydroxychloroquine & such as the Dr. Vladimir Zalenko or Dr Peter McCullough Protocols.
CASE B. VIOLATIONS
VIOLATION #1 Invalid Experimental Authorization for mRNA
a) In Medicine, one does NOT experiment on Human Beings with Complex Synthetic Petro-derived chemical or complex untested (no-double-blind-testing) Gene 70% mRNA & 30%
see more
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AndrewCharnley → Douglas Jack
a day ago
Thank you, Douglas, for a succinct summary of all the falsehoods perpetrated upon this world.

A most valuable summary of points against the so-called authorities about implementing the globalists eugenics programme, first started in England in the 1880's and then in rabid form in the USA, then USSR, China, and Germany with fascism in Germany illustrating the worst in humans.

Much of the food and pharmacology designs are purposefully laced with toxics. In 1969 I worked for the world's number one filtration company, G Bopp, based in Zurich (it was their 875 life support programmes that supported and assisted in the Apollo 11 flight in 1969.

I worked in the London office and we understood there to be 127,000 man-made chemicals at that time, today, according to Wikipedia, there are an extraordinary 100 million. They have never been and can never be tested in any 'absolute' fashion.

With the importation of two phases of immigrant imports of the NAZI science
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Douglas Jack → AndrewCharnley
19 hours ago
Thank you Andrew Chamley for this important context of our collective government & industry approved food & products poisoning. We probably share some Environmental Health & Safety background including what is misleadingly called Organic Chemistry, along with RFKJr. From 1971 I was part of developing the Natural Foods Co-operative Network in the West-Kootenay Region of British Columbia where I lived till 1980. I lived among 45,000 Russian Doukhobor vegetarians, mostly living on their orchard farm properties. I was a chemical technician on Quality Control product & process chemical testing, at a Pulp-mill, where I initiated & helped form a Pollution-Control committee, 1976, I helped bring in Multistakeholder, Founder, Worker, Manager, Supplier, Townspeople investment, ownership & Board Representation. 1979 In related Reforestation work, I was the founding Health & Safety Officer for a new union. I focused on Pesticide mostly Defoliants such as 2,4-D, 245-T & Glyphosate. 1978-80, I helped bring in the BC Uranium exploration & mining hearings & moratorium. Back in Quebec, I helped operate the La Balance Natural Food Co-op network, where I organized & operated a Multistakeholder Participatory Grocery Store. I helped initiate some of
see more
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Isacc Witham
17 hours ago
Lets see
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17 hours ago edited
The Censorship involved Millions and hardly just COVID 19 matters. The idea all these millions censored only involved COVID issues is a claim of enormous nonsense. Until robust Discovery is completed and FOIA Demands are fulfilled , making such assertions is wholly without merit.
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Leslie Taylor
a day ago edited
Forbes Breaking News (a brief 6 min. video) Sen. Josh Hawley Brings The Receipts To Show Biden Engaged In 'Un-American' Censorship Of U.S. Citizens. At today's [Sept. 12, 2023] Senate Judiciary Committee hearing, Sen. Josh Hawley (R-MO) railed against the Biden Administration for working with social media companies to censor posts it didn't like. This young senator's interrogation of a Biden administration representative is quite impressive.
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morecowbelle
2 days ago
Nevermind, I'm confusing Alito with Scalia...easy to do.
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morecowbelle
2 days ago
I thought Samuel Alito was dead. Am I in a time warp?
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irishtap → morecowbelle
a day ago
He just looks dead.
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